

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

HENRY HOWARD,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	4:11-cv-46-TWP-WGH
	)	
STATE OF INDIANA,	)	
INDIANAPOLIS COURT OF APPEALS,	)	
INDIANAPOLIS COURT OF APPEALS	)	
OFFICE, and JANELLE SMILEY, et al.,	)	
	)	
	)	
Defendants.	)	

**Entry and Order Dismissing Action**

Henry Howard sues the State of Indiana, the Indianapolis Court of Appeals, the Indianapolis Court of Appeals Office, and Janelle Smiley, a clerk with the Court of Appeals, for what he characterizes as their negligence in processing—and ultimately in dismissing—his appeal. Mr. Howard was notified that this is a court of limited jurisdiction. He was notified of the types of claims over which Congress has conferred jurisdiction on the federal district courts. He was then given a period of time in which to supplement his complaint by “setting forth the basis of this court’s jurisdiction over his claims.”

Mr. Howard’s response to the foregoing directions was filed on September 2, 2011, and has been carefully considered. His response designates only one source of jurisdiction, that being diversity jurisdiction conferred by 28 U.S.C. § 1332. He defeats the possible existence of that jurisdiction, however, by noting that he is a citizen of Indiana and that the defendant is a division or entity of the State of Indiana. *See Legg v.*

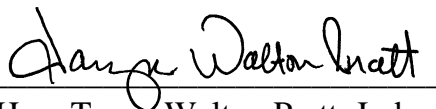
*Wyeth*, 428 F.3d 1317, 1320 n.2 (11th Cir. 2005) (“Federal diversity jurisdiction under 28 U.S.C. § 1332 requires ‘complete diversity’—the citizenship of every plaintiff must be diverse from the citizenship of every defendant.”).

When it is determined that a court lacks jurisdiction, its only course of action is to announce that fact and dismiss the case. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94 (1998)(“Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.”)(quoting *Ex parte McCardle*, 7 Wall, 506, 514, 19 L.Ed. 264 (1868)).

For the reasons explained above, therefore, the action must be dismissed for lack of jurisdiction. Judgment consistent with this Entry shall now issue.

**IT IS SO ORDERED.**

Date: 09/21/2011

  
Hon. Tanya Walton Pratt, Judge  
United States District Court  
Southern District of Indiana

Distribution:

Henry Howard  
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Campbellsburg, IN 47108